

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

**FIRST LEGISLATIVE DAY
MONDAY, JANUARY 10, 2005**

Senate Chamber

At the hour of 12 noon on Monday, January 10, 2005, the time established for the convening of the First Regular Session of the Fifty-eighth Idaho Legislature, the members of the Senate convened in the Senate Chamber of the Capitol in the city of Boise, President Risch presiding.

Roll call showed all members present except Senators Burkett, Cameron, and Pearce, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook, Associate Pastor, Nampa Church of the Brethren, Nampa, Idaho.

On request by President Pro Tempore Geddes, granted by unanimous consent, the Idaho State Police Honor Guard, represented by Sergeant Kevin Hudgens, Trooper Kevin Haight, Detective Chris Elverud, and Detective Sheldon Kelley, entered the Chamber. The Honor Guard was accompanied during their entrance and exit by Sgt. Rich Fuhrman, Bagpiper, Boise Police Department. President Pro Tempore Geddes provided a brief history of the flag ceremony tradition.

The Pledge of Allegiance was led by Sarah Jane McDonald, Senate Sergeant at Arms. President Risch presented the Idaho State flag to the Honor Guard to be raised above the Senate dome to fly during the First Regular Session of the Fifty-eighth Idaho Legislature and the Honor Guard exited the Chamber.

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Little, Chairman, and Senators Noble and Marley to escort the committee from the House of Representatives into the Senate Chamber. Representatives Rydalch, Cannon, and Sayler informed the Senate that the House is now organized and ready to conduct business.

The Senate committee was discharged.

Senators Burkett, Cameron, and Pearce were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Rules of the Senate and Joint Rules of the Senate and House as adopted by the Second Regular Session of the Fifty-seventh Idaho Legislature were adopted as the temporary rules of the First Regular Session of the Fifty-eighth Idaho Legislature.

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Cameron, Chairman, and Senators McGee and Werk to notify the Governor that the Senate is now organized and ready to conduct business.

The committee was excused.

On request by Senator Davis, granted by unanimous consent, the President appointed a committee consisting of Senator Richardson, Chairman, and Senators Pearce and Langhorst to notify the House of Representatives that the Senate is now organized and ready to conduct business.

The committee was excused.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Ninth Order of Business.

Messages from the House

The committee appointed to wait upon the House of Representatives returned and reported that they had conveyed the message to the House and the House expressed their best wishes for a productive session.

The committee was discharged.

The committee appointed to wait upon the Governor returned and reported that the Governor sent his best wishes to the Senate members.

The committee was discharged.

January 10, 2005

Mr. President:

I transmit herewith **HCR 1** which has passed the House.

JUKER, Chief Clerk

HCR 1 was filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

HCR 1, by Denney and Jaquet, was introduced and read at length.

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate consideration of **HCR 1** be suspended. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Coiner, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended and announced that **HCR 1** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Davis, seconded by Senator Stennett, **HCR 1** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:35 p.m. until the hour of 6:15 p.m. of this day.

RECESS EVENING SESSION

The Senate reconvened at 6:15 p.m., pursuant to recess, President Risch presiding.

Prior to recess the Senate was at the Twelfth Order of Business, Second Reading of Bills.

Roll call showed all members present except Senator Richardson, absent and excused.

On request by Senator Davis, granted by unanimous consent, the Senate went at ease for the purpose of attending a joint session to hear the Governor's State of the State Address and Budget Address, and the State of the Judiciary Address by the Chief Justice of the Supreme Court.

JOINT SESSION

Pursuant to **HCR 1**, the hour of 7 p.m. having arrived, the members of the Senate entered into the House Chamber and met in Joint Session with Speaker Newcomb presiding.

Roll call of the House showed all members present.

Roll call of the Senate showed all members present except Senator Richardson, absent and excused.

On request by Representative Denney, granted by unanimous consent, the Speaker appointed three committees to wait upon the Supreme Court Justices and Appellate Court Judges, the elected officials, and the Governor and escort them to the House Chamber.

The Speaker appointed Senators Darrington and Burkett and Representatives Field and Boe as the committee to wait upon and escort the Supreme Court Justices and Appellate Court Judges to the House Chamber.

The Speaker excused the committee.

The Speaker appointed Senators Stegner and Malepeai and Representatives Bradford and Henbest as the committee to wait upon and escort the elected officials to the House Chamber.

The Speaker excused the committee.

The Speaker appointed Senators Davis and Stennett, and Representatives Denney and Jaquet as the committee to wait upon and escort the Governor to the House Chamber.

The Speaker excused the committee.

Prayer was offered by Chaplain Jim Hardenbrook, Pastor, Nampa Church of the Brethren, Nampa, Idaho.

The committees appointed by the Speaker returned and escorted the Supreme Court Justices, Appellate Court Judges, the elected officials, and the Governor into the House Chamber where they were presented to the Joint Session by the Speaker.

The Speaker introduced His Excellency, the Governor of the State of Idaho, Dirk Kempthorne, and the following **State of the State and Budget Address** was delivered by the Governor:

Mr. Speaker. Mr. President. Distinguished members of the Legislature. Mr. Chief Justice and distinguished members of the Judiciary. Fellow Constitutional Officers. My fellow Idahoans.

200 years ago this August, the Lewis and Clark Corps of Discovery first entered what is now the State of Idaho. As we look back at their journals and accounts of the journey, we see a team of men – helped by a young Native American woman – dedicated to the mission of finding new trade routes to the Pacific Ocean for the fledgling United States of America.

Through tough winters, the soaring Rocky Mountain peaks, and cascading rivers, the Corps of Discovery persevered. Across unfamiliar terrain, fighting hunger and the uncertainty of what laid around the next bend, Captains Lewis and Clark and their expedition were the very embodiment of the new nation's sense of wonder, excitement and exploration.

They opened up the West; and along the way, they left a legacy that current generations study and long to experience.

And what is the state of our state 200 years after this magnificent journey? Tonight I will affirm to you that the state of our state is strong, and Idaho is poised for new and great opportunities.

At the outset, I want to be very clear on an issue that has been the subject of a lot of speculation. I've heard some folks say, "There's never been a temporary tax increase." Well I have news for them. On June 30th, the temporary sales tax will expire!

It's a matter of credibility. We made a promise to the people of Idaho and I intend to keep it.

I have some more good news to report:

Individual personal income in Idaho is growing faster than any other state in the Northwest.

Idaho continues to outpace the nation in our Gross State Product -- the growth of the value of all our goods and services.

And for the 19th month in a row, Idaho's unemployment rate is below the national average.

We've been successful in attracting new businesses, retaining existing companies and providing the new upgraded infrastructure to boost our rural communities.

Empire Airlines is taking off, with a new hangar and corporate offices at the Coeur d'Alene Airport. Jayco, one of the nation's largest manufacturers of recreational vehicles, is on the move to Twin Falls. Mackay has hooked a winner with Gone Fishin' in a new business park we helped build through our Rural Initiative.

And the list can go on and on.

I'm recommending that we increase our effort in rural Idaho. I'm asking you to fund an additional \$950,000 for the Rural Initiative, bringing the total funding to \$4.7 million, so we can continue this momentum.

We've launched the Office of Science and Technology and they have spent the past year working with companies, Idaho's universities and the Idaho National Laboratory to expand high-tech opportunities in Idaho.

We will open a new Tech Connect office in the Magic Valley. This will be our fourth Tech Connect office to help entrepreneurs in high-tech start-up companies get off the ground.

I'm asking for \$375,000 in additional funding to support these science and tech initiatives -- including a coordinated effort to attract millions of new federal research dollars to Idaho.

We continue to diversify our state's economy by tapping into international markets.

In just the first two quarters of this year, the value of Idaho products shipped abroad has jumped 50 percent to \$1.4 billion.

We have momentum; now we must sustain it.

We will continue to improve the infrastructure that allows us to sell Idaho goods and services to the world.

That's why tonight I'm announcing an extraordinary opportunity to enhance Idaho's highways, improve safety and expand commerce. It's a vision I call "Connecting Idaho."

Who would have thought that in our lifetime that we could be talking about a safe, multi-lane highway from the Capital city, all the way to the Canadian border?

This revolutionary idea of "Connecting Idaho" gets us a long way down that road, and includes long-awaited and much anticipated safety and highway improvements to each and every region of this state.

Up north, we fix the instant bottleneck on Highway 95 when you first enter Idaho from Canada.

Then, from Sandpoint all the way to Coeur d'Alene -- a four-lane freeway -- and those four lanes continue south all the way to Worley on that heavily traveled portion of Highway 95.

We will finish construction on the decades old vision of a safe, multi-lane highway from Moscow down to Lewiston.

My plan is to eliminate dangerous curves and significantly realign hazardous stretches of 95, and we're going to restore critical riparian areas and environmentally sensitive habitat.

As we continue south, you come to Highway 55, where traffic often gets stalled along the beautiful Payette River. Accidents and deaths are an all-too-frequent occurrence on this stretch of two-lane highway.

As a student at the University of Idaho, I experienced the hazards of Highway 55 firsthand when our car rolled six times -- and would have ended up in the river had it not been for a snowbank.

With the canyon walls and the river, there's no room to expand and add lanes -- but why would we impact that beautiful, scenic environment when we can go around it?

I'm proposing we fund a brand new 56-mile, four-lane divided highway through Indian Valley, a project that has been talked about for years.

This will be a significant new artery to facilitate travel between north and south Idaho. It will also get many of the heavy trucks and commercial traffic off of Highway 55 in the most safe and efficient manner possible.

This will enhance Highway 55 to become one of the premier, pristine, scenic by-ways anywhere in the world and improve the recreational experience for residents and visitors who use this magnificent river.

In the Treasure Valley, there are solutions to the growing traffic concerns. But those solutions are years away and the congestion will only worsen unless we take advantage of the opportunity that is before us.

We can bring Highway 16 from Emmett all the way to Interstate 84 with a four-lane divided highway.

We can build six lanes between Caldwell and Meridian, upgrade existing interchanges and add new ones to improve safety and ease congestion.

We can add new lanes and replace all the interchanges from Orchard past Micron.

In the Magic Valley, residents have long talked about the need for a new Snake River bridge that will get commercial traffic off Blue Lakes Boulevard and help communities on both sides of the river. Without this aggressive effort, that project is probably 30 years away from being completed.

North of the Magic Valley, we're going to improve Highway 75 from the intersection with Highway 20 all the way to Ketchum and Sun Valley, adding lanes and allowing for public transit opportunities in the future.

We'll continue improvements on Highway 30 from McCammon to Soda Springs. Not only will we have a four-lane highway that will showcase Lava Hot Springs as a destination resort, but the project will also restore the Portneuf River and wetlands in the area.

And finally, Highway 20, the gateway to Yellowstone as well as world-renowned recreational opportunities in Idaho will get the attention it deserves – a four-lane highway and new bridges over county roads, and completing the freeway from Idaho Falls to Ashton.

As I mentioned, many of these projects have been talked about for years, but never built because of a lack of funding.

We will issue revenue bonds for the projects, using what are commonly known as Garvee Bonds. But wait a minute. We don't use bonds for building roads...

Well, let's look at history

In 1890, the year we became a state, Idaho bonded for roads.

Lawmakers did it again three years later.

Seven times since statehood, Idaho has used this tool to build roads.

Let me also remind you that we will soon have new buildings on each of our college and university campuses – which normally would have taken us over a decade to construct had we not issued bonds.

It works. I was just in Lewiston last Thursday to celebrate the opening of the Lewis-Clark State College activities center. That building is a tremendous asset for the college, the

community and the entire state. We're going to be just as aggressive for our transportation system.

The state will issue the bonds, and the principle, interest and other costs will be paid off by using future federal highway dollars. This will have no impact on the state General Fund, nor our bond rating, and will still allow for construction and maintenance projects on the Idaho Transportation Department's priority list.

Over the course of the next ten years, we're going to build three decades' worth of highways. I'm proposing we invest \$1.6 billion, and we do it now. It's time we stop talking and start building.

This matches the vision and tenacity of what Lewis and Clark did 200 years ago. And we're still celebrating their accomplishments today. Where would we be as a country if they had stayed in Missouri?

President Thomas Jefferson sent the Corps of Discovery to find a new route to the Pacific Ocean. He had the vision of what a united country – east and west – meant to our nation.

President Dwight Eisenhower, the founder of our nation's Interstate System once said, "Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear - United States. Without them, we would be a mere alliance of many separate parts."

That same sentiment holds true for Idaho today.

With my vision for "Connecting Idaho," all of Idaho's 44 counties will benefit. And we will realize that north, south, east and west are more than just compass points. We will unite Idaho. Are we not one Idaho?

We've already taken a major step to tie our communities together with hundreds and hundreds of miles of fiber optics and other high-speed telecommunications lines linking southern Idaho. We're doing the same thing in the north. Whether you're in New York or New Plymouth, you can instantaneously do business with the rest of the world.

The investment in high-speed telecommunications is the result of our tax incentives and the improved 6 percent Investment Tax Credit for Broadband. It's helped expand the economic base of our state.

Tonight, I'm proposing another innovative strategy to attract new corporations and bring high-paying jobs to the state of Idaho. And, more importantly, this strategy will help us retain our base.

Idaho is home to a number of Fortune 500 companies, but in a time of corporate mergers and consolidations, we can never take that for granted. How do you nurture your existing base and attract new corporations? Here's how:

I have spent the past several months developing a progressive tax incentive package designed to retain and attract corporate

headquarters in Idaho. I'm asking for your support of an incentive package that will grab the attention of Fortune 500 companies around the country.

To qualify, companies will need to:

Create at least 500 new jobs in Idaho;

At a minimum starting salary of at least \$50,000 year -- plus benefits;

Invest at least \$50 million in a new office building or plant;

And, they must do this all within a 5-year time period.

If a company is willing to make these kinds of significant investments, and create these types of jobs in Idaho, I'm proposing the following tax incentives:

A doubling of the Investment Tax Credit to 6 percent for a five-year period;

Removing the 50 percent limit on the Investment Tax Credit;

An enhanced Jobs Tax Credit;

A new income tax credit for Real Property Improvement;

Property tax abatement on qualified new construction; and

Sales tax abatement on construction materials.

As you can see, this is a very aggressive package and I am confident that it will spur a great deal of interest among companies here in Idaho and throughout the country. This is an investment that will pay for itself with new, high-paying jobs and increased tax revenue to the state.

With your support of this package, I will send Commerce and Labor Director Roger Madsen out to meet with leading companies and encourage them to look at Idaho as a potential new home.

Who are the beneficiaries of these types of efforts? It is Idaho's families and children. It provides both the jobs, but also the revenue to provide the essential services of education, health care and public safety.

Long before a child enters school, the learning process begins. We all recognize that if we can provide a solid foundation in early childhood health, education and development, our children will grow up with more opportunities and chances to succeed.

First Lady Patricia Kempthorne and Dr. Jerry Hirschfeld and the Governor's Coordinating Council for Families and Children have achieved an impressive record of success in getting communities to work together for the benefit of families and children.

My "Generation of the Child" initiative continues to be successful. We've provided extensive training for more than 3,000 volunteers, communities across the state are working together and sharing ideas on how to promote the well-being of families and children.

Our Parents as Teachers demonstration project is an acknowledged national leader in measuring the positive difference parents can make as their child's first teacher. Our "Red Flag" program is training school personnel how to identify the warning signs of teen suicide.

Our efforts are also helping to provide grant opportunities to fund locally-based initiatives which have benefited more than 65,000 children...and that's only for 2003.

Not very long ago, less than half of our young students were reading at grade level.

Since its establishment early in my first term, the Idaho Reading Indicator has shown that we're making steady progress in improving reading skills by the third grade – an important barometer when measuring future success.

The Idaho Standards Achievement Test, or ISAT, is being implemented as a graduation requirement beginning with the Class of 2006. 80 percent of the students of that class who have taken the test have already passed the ISAT.

Now, we can focus our attention on those 20 percent of the students who need more help in certain areas. They have multiple opportunities to pass, and based on the initial results, I'm confident we're on the right path to ensuring our high school graduates have a good grasp of the fundamental skills they'll need to be successful.

An important aspect of the test is that it helps measure the effectiveness of our schools. Last session, we made great strides in improving accountability and providing transparency in the largest single item in the state budget, the public school allocation.

Once again, I am recommending an increase in general funds for public schools. School districts will be pleased to see an increase in the funding level of support units this year over last year. I am recommending a General Fund appropriation of \$999 million for K-12.

We're hovering at our first \$1 billion budget for public schools in Idaho.

Our State Board of Education has also launched an initiative to improve the high school curriculum and bolster the opportunity for accelerated and advanced learning.

The Charter School legislation I proposed and you approved last year has proven to be successful. Four new charter schools were approved and given the freedom to innovate and strive for higher academic achievement.

I've suggested to our university presidents that they should consider forming a charter school. Imagine the results if one of our Colleges of Education – in a charter school setting – encouraged those who teach the teachers to have new opportunities to be even more imaginative, creative, and innovative.

As new charter schools come on-line, we're not forgetting the facility needs of our schools. Just last Thursday, the new Bonners Ferry High School celebrated its grand opening.

I had a great interest in the opening of that new school. And, each of you here had a great interest in that school. And here's why. The State of Idaho paid \$1.3 million in interest on the bonds to construct that new building.

It is part of an incentive crafted by the state to help local communities meet their school building needs.

My budget proposal this year enhances that concept, making \$5 million available to districts that need help building new or renovating existing school facilities.

Since we first instituted the program, voters in 31 districts have approved bond levies to address their most critical needs and to take advantage of this partnership with the state.

I applaud our teachers, schools and parents who work every day to help children learn. So much is going right in education and we must celebrate our successes while we keep our focus on improvement.

I have always been an advocate for acknowledging and rewarding great achievements. For too long, there's been a disconnect between the quality of the teacher and the pay they receive.

For that reason, I support the State Board of Education's examination of merit pay. The committee is still working on a plan, but already, there are school districts interested in a pilot project where compensation is based on performance and how well a teacher teaches in the classroom.

We have a record number of students attending Idaho colleges and universities. And, as a state, we have committed to help Idaho students in their education through our scholarship programs. This year, 7,600 students are taking advantage of the Robert Lee Promise Scholarship.

And for our men and women in the Idaho National Guard, I'm recommending an additional \$100,000 in General Fund support for the Military Division's tuition assistance program.

My budget proposal increases General Fund support for higher education by \$14 million, which includes the full amount requested to address the costs related to the record number of students enrolled.

At Idaho State University, the beautiful new Stephens Performing Arts Center will open this spring. This state-of-the-art facility is the result of generous gifts and private donations.

My budget contains the funds necessary to operate this world-class educational and performance center that will also host some of the top touring orchestras and performers.

Another important part of our culture is our history.

In October, the new Phase 2 of the Idaho History Center will open. This building will house the historical library, and will provide public areas for research and educational programs and help us preserve Idaho's legacy for generations to come.

I'm also proposing funding for design and engineering work for a new wing on the Idaho History Museum in Boise. Every year, thousands of students, scholars and sightseers visit the public displays of our heritage.

It's time we expand the museum to allow more of Idaho's rich past to be displayed and interpreted. When the design is completed, we'll partner with the private sector to build the new wing.

Idahoans have a long tradition of stepping forward and supporting public projects like the Stephens Center and Historical Museum.

I want to acknowledge the generous gift to the state by Jack and Esther Simplot, who last month donated the home they loved for more than 20 years and the 36 acres that surround it, for use as a governor's residence. Isn't that a most outstanding gift by an Idaho legend?

J.R. Simplot is known all over the world. His company was one of the first to understand the benefits of expanding into new overseas markets. On one of my trade missions, I had the honor of dedicating a Simplot potato processing facility in China.

While on trade missions I market Idaho as a world-class tourist destination to our friends abroad. Last month, the first all-season resort to open in North America in a quarter of a century opened on the shores of Lake Cascade near Donnelly.

Tamarack Resort will add prestige and an economic shot in the arm for Valley County and the rest of Idaho and was just featured in a full-page story in the New York Times.

The resort has already paid five years' worth of rent for the use of state endowment lands – a total of \$ 1 million – a significant increase over the \$40,000 per year the Endowment Fund used to receive from the property.

Recreation plays such an important part of the overall quality of life for Idahoans and helps attract new businesses as well as tourist dollars. When other states were closing parks, we were opening parks. We now have 31 state parks.

I'm proposing a significant reinvestment in one of Idaho's most popular destinations -- Ponderosa State Park. Future visitors to Ponderosa can expect more campsites, new RV hookups, improved access to Payette Lake beaches and bike paths. We will make Ponderosa Park a year-round destination.

A former private facility that is now part of the park will be renovated and opened to the public. We've identified the funds to begin this renovation.

The centerpiece of the park's renaissance is a new multi-use building that will house park offices, meeting rooms, public common areas and 30 guest rooms. This rustic lodge, which will be built among soaring Ponderosa pines, will provide Idahoans with a new and special place to enjoy and experience the beauty of Ponderosa Park.

I've spoken to the Mayor of McCall, Valley County Commissioners, residents and park users, and they enthusiastically support this vision for Ponderosa.

What I've talked about tonight are some unique opportunities for Idaho. There are some challenges, however, that every state in the nation is struggling to deal with.

Across the country, Medicaid, the health insurance program for our low-income children, pregnant women, elderly and disabled, has experienced continual, exponential growth over the past decade.

Just ten years ago, Medicaid represented 7 percent of our total state budget – today, it represents 15 percent.

Nationally, the same trend holds true, with Medicaid approaching 23 percent of state budgets – in some states even exceeding spending on public schools. But not in Idaho, where we maintain a funding ratio of 3-to-1 of public schools over Medicaid.

We are all aware of the problems many states have experienced by cutting eligibility for their Medicaid recipients. It's resulted in more emergency room visits, more expensive treatment and more lawsuits.

Compare that to what we've done in Idaho. When our budget problems forced holdbacks, we looked for ways to reduce spending with a minimal impact on our citizens. We focused on improving the management of Medicaid.

And what have been the results? More than \$150 million in savings over the past two and a half years and better care for patients.

The Medicaid budget that I have submitted to you tonight anticipates that we will find additional ways to contain rising costs. Next week, I will join fellow Governors in Washington, D.C., as we begin working with the Administration and Congress on Medicaid reform.

I am optimistic, but I am also a realist. Absent federal reforms in the Medicaid system, or drastic and even devastating reductions in vital services, we will have to revisit this year's Medicaid budget next session. There is money in reserve accounts if we need to cover those costs.

I recently completed my term as Chairman of the National Governors Association. During the year, I focused on the

growing issue of long-term care and its impacts on state budgets and the health and self-esteem of our seniors and their families.

This year, my budget provides increased funding for home and community based services, like home delivered meals and personal care services for elderly citizens who, with just a little extra help around the house, are able to stay in their homes longer. This saves money, improves care and preserves dignity.

We must encourage future generations of Idahoans to plan for their own financial and health care needs.

Tonight, I'm announcing a new partnership between the State of Idaho and the Federal Department of Health and Human Services that will encourage individuals to do just that.

Over the course of the next week, more than 125,000 letters will be mailed to Idahoans between the ages of 50 and 70, providing information on where to get help in planning for their long-term care needs. Idaho is one of five states chosen to launch this new initiative.

We also will encourage all Idaho public employees to purchase long-term care insurance under a new group plan available through the state.

By making this option available through a payroll deduction, we will make it easier to purchase long-term care insurance.

These options, combined with the 100 percent tax deduction for long-term care insurance that we approved last year, have made Idaho one of the most progressive states in helping our citizens prepare for their long-term health care needs. And you are to be congratulated for your wisdom.

In our adult correction system, we have an inmate population pushing 100 percent of capacity. Numbers like this cause me great concern, especially for the safety of our corrections officers.

To address that, we will purchase a new structure to house medium-security inmates within the perimeter of the Idaho State Correctional Institution. This building will help alleviate some of the crowding without the full-scale investment in a permanent facility.

It's time we take a good, hard look at the number of inmates as well as those on probation or parole.

Today I signed an Executive Order establishing the Criminal Justice Commission to help solve critical problems in the criminal justice system. In particular, I have asked the Commission to focus its attention in several key areas, including:

Reducing our incarcerated offender population;

Continuing our fight against the plague of methamphetamine abuse, manufacture and trafficking; and

Creating partnerships and collaborative efforts to protect our communities against gang activity.

There has been a lot of attention recently to the growing gang problem in Idaho. Tragically, lives have been lost and the very safety of communities has been threatened.

The combined efforts of local and state law enforcement have been effective throughout the state. We will continue to commit the resources of the Idaho State Police in partnership with local government. Idaho will not be a haven for gang activity.

Another area where the ISP and local law enforcement agencies have a proud tradition of cooperation and teamwork is in the battle against methamphetamine.

Since 1999, we have busted 741 clandestine labs around the state. We've been aggressive in going after the manufacturers of meth, but now these drugs are being imported in and through our state. Working with federal authorities, we continue to battle against foreign gangs intent on using Idaho as a pipeline for their poison.

I've been very direct and to the point. We have zero tolerance for this type of activity.

Another step we're taking is an innovative approach to protecting children endangered by the toxic filth of meth labs. We're working on strategies to get these children out of danger, medically assessed, and into a safe environment.

And, when a home, apartment or motel room is used to cook meth, we will establish cleanup guidelines to ensure the safety and health of unsuspecting residents after the lab is shut down.

And while we continue to aggressively eliminate the availability of drugs in our communities, we recognize the need for substance abuse treatment for those who are addicted to these powerful chemicals. Idaho has received a \$22.8 million federal grant that will allow us to create a system to help more addicts gain "Access to Recovery."

Doesn't it make sense to get meth off the streets, addicts into care and families reunited?

Let me now address one of the key issues this Legislature will face: Water.

One of the major issues for years has been the Snake River Basin Adjudication, which determines water rights throughout much of Idaho. To give you a sense of the magnitude of this, when completed, this will be the largest adjudication ever in the United States.

When I first took office, I made it clear that I would not support any negotiations in the SRBA involving the Nez Perce Tribe and the water users that did not protect our state sovereignty and existing water rights.

The historic agreement we announced last May in Idaho with Interior Secretary Gale Norton affirms those principles. Over the past five years, and at times when it looked like negotiations were at an impasse, I urged all sides to return to the table – often in my office.

I told the water users when they reached an agreement, I would take it to the White House and Capitol Hill. They did their part, and I did mine.

Thanks to the work of our outstanding Congressional delegation, Congress and the President have now approved our landmark agreement. Millions in federal dollars have been set aside for Idaho, and are waiting for this legislature to now act.

I'm proud of what we've accomplished. I'm proud to have stood with the water users, the Speaker and the Pro Tem as well as many of you here tonight to announce the agreement. Here's what we have achieved:

Sovereignty;

Certainty;

And the opportunity for Idaho to chart its own water destiny.

This is a solution reached by water users – these are their water rights. Listen to them and ratify this agreement. Isn't it better for us to decide issues about our water than to have a court do it?

Throughout the summer and fall, a Legislative Interim Committee met on another pressing water issue – the Eastern Snake Plain Aquifer – a problem that has been decades in the making. The Speaker and the Interim Committee should be commended for their efforts to develop a consensus solution and mechanism for the users to pay for it.

I've directed Department of Water Resources Director Karl Dreher to send out requests for proposals to find willing sellers for the 60,000-acre feet necessary to meet the requirements of the SRBA. This water will remain in state ownership. I will also sign the application for Idaho to enroll over 100,000 acres of land into the Conservation Reserve Enhancement Program to reduce water demand.

This is a complex problem that has confronted Idaho water users since the 1950's. By continuing our collective efforts and working together, we will find a solution.

The State of Idaho is on the leading edge in addressing endangered species issues in a positive way.

Last week, at our request, the Secretary of Interior signed an historic rule that will change the way Idaho's wolves are managed. The new rule affords Idaho an opportunity unparalleled in the 30-year history of the Endangered Species Act. Idaho will be the first state to manage wolves under its own plan.

We also get increased flexibility for private landowners and permittees to deal with aggressive wolves harassing or attacking livestock and pets.

The establishment of the Office of Species Conservation five years ago was key for this unprecedented change in management. The new rule is the culmination of a partnership with the federal government that shows greater respect for property rights and reflects our responsibility to maintain healthy big game herds.

Once again, here in this very building, we crafted an Idaho solution that puts us in the driver's seat toward the ultimate goal of de-listing the wolf!

100 years ago, in 1905, construction began on the Idaho State Capitol Building.

On any day during the legislative session, this building is filled with people. Lawmakers, citizens, the news media, lobbyists, students, and the people who work in the offices are all in this building. Thousands of children visit this building every year. Yet the only part of the Statehouse that has fire sprinklers is the area that caught fire several years ago.

If you have a heart attack or any sort of a medical emergency, the paramedics' gurney will not fit into either of the small, outdated elevators.

There are no emergency exits.

We spend a lot of money promoting high technology and equipping state government with the latest tools to improve efficiency and constituent service. Yet those modern computers are plugged into 1917 electrical wiring.

I really hesitate to go on with the safety problems that exist because of the liability it raises.

In good conscience, we can't put this off any longer. Not only are we the stewards of this treasure, called the State Capitol, but we are also the guardians of the safety of the people who come here.

I am proposing tonight that we will do the necessary restoration and safety upgrades of this building, and finally address the issue of the Capitol Annex across the street.

Our work here is an open democracy. Idahoans can visit their Capital city to watch their elected representatives in action. But too often, they have to stand in the halls, because there's no space in a committee hearing room.

Yet, when they leave this building, they pass by a large, boarded up structure and they wonder why lawmakers can't meet there? Utilizing that building will allow more citizens to participate in their government.

I'm proposing we combine these two projects, and by continuing the current rate on the cigarette tax and redirecting those resources to the Permanent Building Fund, we'll be able to pay for them. We'll also increase the funding available each year from \$14 million to \$20 million to address the backlog of maintenance needs at the State Hospitals, on our college and university campuses and public safety buildings.

My FY2006 budget recommendation is for \$2.2 billion – a 6 percent increase in regular appropriations over last year.

Just like last year, I'm combining my State of the State speech and budget address to give you an early start on the session. There's no need to wait until Wednesday for budget details. They're all right here.

It represents a conservative spending plan that addresses our critical concerns and meets our ongoing needs.

My budget also recognizes the contributions of our dedicated and tremendous state employees in making Idaho a great place to live, work and raise a family. I am proposing that we fund a one-percent salary increase for state employees and teachers.

In addition, I'm recommending funding for the increased employer costs of our state health insurance plan that was recently redesigned to address the effects of health care inflation.

Over the past few months, we have seen the economy perform better than expected, and our revenue collections have exceeded our predictions.

My budget projects a \$117 million surplus in the current fiscal year. This might lead some to the false conclusion that there is no longer a need for budgetary restraint. I would caution against that.

Even with a conservative spending plan, and the benefit of year-end surpluses, we may very well find ourselves with a shortfall in FY2007.

We can agree that there's a structural problem in our budgeting process that relies too much on one-time money. How much of that one-time money will we need in Fiscal 2007?

That depends on how much we stimulate the state's economy.

If not, we use the reserves. If the structural problems continue, then be fully prepared to have me come back next year with suggestions on reforms and a simplification of our tax structure.

For some of you legislators, this is your first experience with being elected to public office. I can tell you it is a rewarding and noble service to be elected by the people to make important decisions on their behalf.

For those who have spent time in this Legislature, think of all that we have accomplished together. It has been truly outstanding. I am grateful for the partnership I have had with the Legislature – for your friendship, support, counsel and ideas.

Tonight, I have presented to you a conservative budget and bold initiatives that I believe position this legislative session as one that will be seen as a defining moment in Idaho's history by future generations. And, I will work with you to ensure that this happens.

Right now, 2,000 Idahoans are halfway around the world trying to make democracy work.

The men and women of the 116th Brigade Combat Team are in northern Iraq, working to stabilize that nation as it heads towards elections later this month.

It's tough, dangerous and exhausting duty, but the 116th is one of the finest-trained and finest-equipped forces our country has, and I'm confident that they'll do the job with distinction. They make every Idahoan proud.

I had the honor of spending Thanksgiving with the troops in Alexandria, Louisiana before they departed for the Middle East and Operation Iraqi Freedom.

The night before Thanksgiving, the troops were treated to a USO-type concert from Paul Revere and the Raiders and an outstanding Idaho vocalist, Nancy Roche. These talented musicians and their bands volunteered to give up their holiday with their families to be with our troops. It was a memorable scene, to see the faces of the soldiers turn from stoic to smiles as they laughed and sang along.

We served Thanksgiving dinner to the troops – and soon thereafter during the next three days – the soldiers began to board the planes that would take them to the Middle East. I looked each of them in the eye, shook their hands, and wished them Godspeed.

In fact, for the pre-dawn flights, I had vehicles reposition on the tarmac with their headlamps on high beam so that I could look into the soldiers' eyes and mentally record each face.

One of the most indelible images I have of their departure is of battle-ready soldiers – carrying their weapons and dressed in desert-camo fatigues, body armor, and helmets with their blood type stenciled on the side. And many of these soldiers had little stuffed animals, given by loved ones, poking their heads out of their backpacks. These soldiers are the most caring and genuine of human beings.

My message to each of them was that they had a job to do, and they are equal to that task. I also told them that the citizens back home would be looking out for their families while they carried out their business.

As those airplanes took off, each carrying its precious cargo, I couldn't help but think of how wonderful a reunion we'll all have a year from now when these fellow Idahoans come home to their families.

This evening, in nearly every county in our state, there is a child going to bed without Mom or Dad to tuck them in because that parent is on active duty; a son or daughter, as we speak tonight, may be getting ready for early-morning patrol in a potentially hostile territory.

What is our responsibility? It's to ensure that that soldier can remain focused on his or her mission, and not be worrying about family needs back home. Their families' needs must become our needs. If we take care of the family, then the soldier can take care of their mission, until the reunion occurs. That is our responsibility.

This holds true for the 89 outstanding Marines of Charlie Company which I wished Godspeed to this past weekend as they begin their journey to Iraq. I also acknowledge the members of

the Idaho Air National Guard's 189th Airlift Squadron, the 124th Aerial Port Flight and the 124th Air Support Operations Squadron, who are also deployed in Iraq.

Let's do our part for the families of these brave soldiers, and let's pray for their safe return. Tonight, join me in saluting the soldiers of the 116th Combat Brigade, the Idaho Air Guard, Charlie Company and all Idahoans in uniform. God bless them for their service.

Let me also salute General Jack Kane for his 42 years of service to our country and our military. His service as Adjutant General of the Idaho National Guard has been exemplary. It's been an honor and privilege to work with him. On January 15, we will have a change of command as General Kane retires, and General Larry Lafrenz takes over the command of the Idaho National Guard. Well done, General.

Let's also acknowledge those Idahoans who wear the uniforms of our police, firefighters and paramedics. Tonight I ask all Idahoans, to say a prayer for Coeur d'Alene police officer Michael Kralicek who was shot in the line of duty and lies critically wounded.

We have a tremendous opportunity this legislative session to do some great things for Idaho. The Idaho National Guard, in the single largest deployment of our troops in state history, is giving Iraqis the opportunity for peace and democracy.

Lewis and Clark took advantage of the opportunity to link our nation, east to west, and forever changed the course of history for the United States of America.

When you look at your budget books, you'll see that on the cover we depict these opportunities – Lewis and Clark in 1805, the construction of the State Capitol in 1905, and our troops overseas in 2005.

You have it within your grasp to be regarded as one of the greatest legislative bodies in the history of the state. If you're bold and if you're ready to aggressively reach for our future. All the ingredients are here. The opportunities are waiting for us.

God Bless Idaho and God Bless America. Thank you and good night.

The Speaker thanked Governor Kempthorne for his message. The committee came forward and escorted the Governor from the House Chamber to the House Gallery.

At this time Speaker Newcomb introduced Chief Justice Gerald F. Schroeder who delivered the following **State of the Judiciary Address** to the Joint Session:

Governor Kempthorne, Mr. Speaker, Mr. President, Mr. President Pro Tem, my colleagues on the Supreme Court, Judges of the Court of Appeals, Constitutional Officers, distinguished members of the Senate and House of Representatives, and fellow citizens of Idaho.

It is an honor to appear before you to speak for the Courts. This is the first occasion I have done so. Some of you may not be acquainted with the members of the Supreme Court, and I would like to tell you a bit about the Justices and Judges that serve this great State.

Most of you do know Vice Chief Justice Linda Copple Trout who served an unprecedented term of nearly eight years as Chief Justice. Under her leadership the development of court assistance offices, among many accomplishments, stands as a milestone in the spirit of innovation and outreach of the Courts to the public – today many people with legal difficulties can have a day in court that would have been too costly and complicated in the past. Were I to detail her many accomplishments we would go deep into the evening.

Justice Daniel Eismann is a person whose life exemplifies the best of the American character. He is a highly decorated veteran of the Viet Nam war, including three medals for heroism and two purple hearts, serving two tours of duty as a crew chief/gunner on a Huey gunship. He is a scholar, a true man of letters who respects the concept of an orderly society governed by the rule of well-defined, just law.

Justice Roger Burdick comes to the Court with a tremendous depth of experience in the legal system – a prosecutor, public defender, private practitioner, magistrate judge, and district judge. He served with distinction as the Snake River Basin Adjudication Judge and as a member of the Judicial Council with the responsibility of screening judicial applicants and overseeing compliance with the ethical standards of judicial office. He has an intense focus on seeing that justice is achieved and the experience to achieve that end.

Justice Jim Jones is the newest member of the Court. Many of you know him as the State's former Attorney General and remember him as a fair broker who represented the interests of the State with an even hand and wisdom. He too is a distinguished veteran of the Viet Nam War serving as an artillery officer, promoted to Captain and highly decorated for gallantry. We all look forward to serving with him.

I would be remiss if I failed to mention recently retired Justice Wayne Kidwell who is in an elite group of three, including Justices Herman Taylor and Allan Shepherd, who have served in high elected office in all three branches of State government. He brought intelligence and insight to the Court and stood his ground for the right thing for the citizens of our State. He never abandoned his passion for the rule of law that provided individual justice and fairness to any litigant who stepped into our Courts.

Obviously I can't go through all the Judges who serve the public in varying roles. But let me give you some insight into what they are doing – the State of the Judiciary.

We have a Court of Appeals consisting of three judges, Chief Judge Darrel Perry, and Judges Karen Lansing and Sergio Gutierrez, who disposed of 552 appeals last year, carrying a burden that allows the appellate process of the State to function in a timely manner.

We have 39 District Judges who disposed of over 22,000 cases last year. These are the showcases to the public of our system – the spotlight courts that make nightly news when a decision as to life or death, freedom or imprisonment must be made. The fate of businesses in litigation rests in their hands; they deal with the terrible injuries to persons or those persons' reputations. A District Judge may be required to spend three, four, or more weeks in a single case and figure out how to process the other 550 to 600 hundred cases on his or her calendar.

We have 83 Magistrate Judges who disposed of over a quarter million cases last year, excluding infractions – over a half million cases when infractions are included. They are the baseline of our system who come face to face with the public in the matters that effect most people, including children and families, mental health proceedings, misdemeanors, probates, infractions, and more. They are the barometers who tell us first what is impacting people in our State, who see the trends and nuances of social change and public attitudes. They handle a mass of cases expeditiously, and they make the system work.

There is a lot going on in your courts, the people's courts. And the burden grows yearly. Under the press of growth the courts have not requested the addition of a new judge at any level in the past seven years. Had the growth of our State and the difficulties of litigation been met in that time by the addition of full time judges there would have been a need for six additional judgeships at a considerable cost to the public. In the financial times that exist you will be relieved to hear that we are not requesting any new judgeships this year.

Filling the gap that would otherwise exist from the increasing caseloads has been accomplished by the use of retired senior judges and plan B judges at considerably less cost than the addition of full time judges.

The Legislature has recognized this need and the efficiencies that are achieved by the use of retired judges, as well as utilizing sitting judges to travel to other districts. We seek a modest increase in funding this system which will allow the prompt flow of cases at considerable savings over the funding of new positions that would otherwise be necessary.

The Courts are well aware that our State's budget is under intense pressure from the many core needs that must be honored. In recent years we have responded by reducing our expenditures significantly. We recognize the necessity of this, recognizing also that this has left gaps that at some point should be filled. What we seek in our budget now are rock bottom needs that are essential to deliver justice.

Our country has always been a haven for people from other cultures who often come to us without the language skills to negotiate the legal system without the aid of highly trained interpreters. The diversity of languages that is presented to the courts is stunning. The days of having a few people who could interpret from English to Spanish are gone. The days of having under-trained interpreters who would listen to a witness for five minutes and then report a single word answer of "yes" or "no" following this extended dialogue must go. Constitutional due process requires more. More fundamentally we must meet this

challenge because it is right. No one must be a stranger in the halls of justice, bewildered by the most fundamental need – an understandable language.

We are in the electronic age when a single person can accomplish in minutes work that in the past would have required hours or days. Judges and clerks could not keep up with the flow of paper, tracking of cases, and the accounting of millions of dollars without ISTARS, our nationally recognized court computer system. Court clerks can process more cases than ever before, which provides financial relief to the counties. Additionally, there is critical information in ISTARS that needs to be shared with criminal justice agencies to enhance public safety. ISTARS is the foundation that allows new technologies to be used to improve our service to the public. On-line payment of court fines, imaging of court records, electronic filing, video conferencing and the electronic sharing of critical information are examples of technologies that Idaho's courts could use if there is sufficient funding. We propose an increase of the user fee to keep pace and improve the system.

I have been a judge for almost thirty-six years. I can tell you that in your court system there is an incredible energy and innovative spirit that is alive and pursuing goals to achieve the most noble ends. The Court has reported to you regularly on the progress of the Drug Courts that are salvaging lives and diverting people from life in the State Penitentiary. They have brought together all elements of the criminal justice system and social resource expertise to address a problem so corrosive that it destroys the life of the addict, often the unborn, the family, and brings a nastiness to society that is incalculable beyond the incredible burden of crime we all know. Judges throughout the state have volunteered their time well beyond any normal work day while still carrying full caseloads in other areas. They are having an impact both for now and the future. A judge in eastern Idaho told me that his Drug Court could account for five newborn babies whose mothers were drug free who otherwise would have delivered children with the potential for damage and expense that is obvious. A natural extension has been the development of nine juvenile drug courts across the state, recognizing that the sooner the problem is addressed the better for all. The potential for good is too great to let pass.

Judges in the state are becoming increasingly interested in transferring the lessons from Drug Court to a concept of the Mental Health Court. Again, the judge's time is beyond the other caseload with no reward except for improving the communities in which they live. The impact these courts can have is exemplified by a statement I heard in Idaho Falls from a graduate of Judge Moss's mental health court, describing her experience and the result – "THEY WERE MY MIRACLE. NOW I'M THEIR MIRACLE."x

Governor Kempthorne, the Courts applaud you for your leadership in addressing problems in the criminal justice system. We support the concept of a Criminal Justice Commission to bring together cooperatively the various elements of that system to study and improve it. Whatever we can do to make this idea work, we will do. We also recognize that gang violence and the existence of gangs operating within the fabric of our society are issues that must be dealt with in a global fashion. No single

element of our society can cure the problems that gangs create. Again, we will cooperate with whatever expertise we can lend to the solution of the problem.

The short statement of what I am saying is that in these difficult budget times and in the face of increased caseloads and social problems judges have stepped up to tackle the most difficult problems with vigor and purpose. And they will go further. The judges are anxious to do the job. We ask for the tools to do the job.

The world stage of today is one of turmoil. Our country is at war, and we ask others to step forward and carry that burden for us. One of our own, Judge Gordon Petrie, volunteered for duty in Iraq and presently serves there in the 116th Brigade Combat Team with responsibility for stabilization and security. Judge Petrie had these words to say about his duty in Iraq:

"IT IS AN HONOR AND PRIVILEGE TO BE ON THE GROUND FLOOR OF THE BIRTH OF A DEMOCRACY. IT WILL BE STRANGE, HOWEVER, TO CELEBRATE MY 57th BIRTHDAY ON 1 JANUARY IN A FARAWAY LAND WITHOUT FAMILY PRESENT. BUT ALL OF THAT WILL BE WORTH IT IF WE CAN HELP THE GOOD PEOPLE OF IRAQ MAKE THIS THING WORK. HARDLY A DAY GOES BY THAT I DO NOT THINK OF OUR WONDERFUL STATE."

We stand in awe, with the deepest respect, and admiration for Judge Petrie and all the other men and women who serve our country so well.

It is humbling to talk about budgets and caseloads in the shadow of this epic struggle. So what do we do? We set an overarching mission – that when these men and women return, they return to a good and just place to live. We are not the warriors on the line. We can only preserve and improve those things within our reach. We must do that.

Thank you for the opportunity to be here this evening.

The Speaker thanked Chief Justice Schroeder for his remarks.

The committees came forward and escorted the Governor, the Supreme Court Justices, Appellate Court Judges, and the elected officials to their chambers and offices respectively, and were, on their return, thanked and discharged by the Speaker.

On motion by Representative Denney, seconded by Representative Jaquet, by voice vote the State of the State and Budget Address was ordered spread upon the pages of the House and Senate Journals.

On motion by Representative Denney, seconded by Representative Jaquet, by voice vote the Joint Session was dissolved.

The appointed committee came forward and escorted the Senators from the House Chamber.

The members of the Senate returned to the Senate Chamber.

On request by Senator Davis, granted by unanimous consent, the State of the Judiciary Address was ordered spread upon the pages of the Senate Journal.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 8:45 p.m. until the hour of 11:30 a.m., Tuesday, January 11, 2005.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary